

REMARKS

This paper is filed on August 24, 2005 in response to the Restriction Requirement dated July 28, 2005. Consequently, this paper is timely filed.

Applicant elects Group I (claims 1, 2, 4, 5, 7-12, 20/1, 21/1, 22 and 24-30), with traverse.

At the outset, applicant disagrees with the characterization of Group I as a combination and Groups II and III as subcombinations. The Manual of Patent Examining Procedure (MPEP) states, at MPEP 806.05(a), that “[a] combination is an organization of which a subcombination or element is a part.” In the present case, the shredder apparatuses of independent claims 1, 13, 22, and 39 share most limitations in common. All have a frame, a shaft, a bearing assembly, a rotor, first and second shredder members, seal members (or seal assembly) and a drive assembly. While it is true that independent claims 1, 13, 22, and 39 differ as to certain limitations concerning the details or interrelationships of these items, applicant submits that the limitations that differ between the recited shredder apparatuses do not convert one into a combination and the others into subcombinations. If the claimed subject matter is not combination and subcombination, then one does not reach the analysis of MPEP 806.05(c), relied upon to support the restriction requirement. Consequently, this restriction requirement should be withdrawn.

Moreover, the restriction requirement is internally inconsistent relative to the present application. For instance, Group I includes independent claims 1 and 22, while Group III includes independent claim 39. It is suggested that Groups I and III differ in that Group I does not require “a bearing assembly located inwardly from the shaft ends” because claim 22 lacks such a limitation. However, claim 1, which is, as indicated above, part of Group I, includes this limitation. Consequently, this limitation cannot be relied upon to show a difference between Group I and III. For this reason as well, the restriction requirement should be withdrawn.

If this restriction requirement is to be maintained, the undersigned respectfully requests a telephonic interview with the examiner and his supervisor. In this regard, the undersigned notes that he was not contacted, as far as he is aware, regarding this restriction requirement before its issuance. The undersigned was in the office on July 8, and received no telephone call or voicemail in regard to the restriction requirement. Consequently, the undersigned requests the courtesy of a telephonic interview if the restriction requirement is to be maintained.

Dated: August 24, 2005

Respectfully submitted,

By 

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